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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/721,451

11/24/2003

James R. Stoy

X-0150

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7590

09/19/2006

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EXAMINER

REIFSNYDER, DAVID A

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,451

Applicant(s)

STOY ET AL.

Examiner

David A. Reifsnyder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-15 and 20-27 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 16-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-8, 10, 11, 13, 14 and 20-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Engel et al.

Regarding claims 1, 4-8, 10 and 11; Engel et al. teaches an apparatus for separating a slurry, comprising: a hydrocyclone (col. 8, lines 52-54), the hydrocyclone including a slurry inlet (11), an underflow outlet (14), an overflow outlet (13) and an inner wall having a circular cross sectional shape; a reactor/products vessel (1); a conduit between the reactor/products vessel (1) and the overflow outlet (13); a solids vessel (32) including a pressure adjusting means; and a conduit between the reactor/products vessel (1) and the solids vessel (32) providing fluid communication between the reactor/products vessel (1) and the underflow outlet (14). (Fig. 2)

Regarding claims 13, 14 and 20-27; Engel et al. discloses a method for separating a slurry, the method comprising: introducing a slurry comprising liquid, solids and gases into a hydrocyclone at an elevated pressure of at least 250 psig and an elevated temperature of between about 250° F and about 600° F, the hydrocyclone having an underflow outlet (14) and an overflow outlet (13); directing separated liquid

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components and gases through the overflow outlet and into a reactor/products vessel (1); directing a solids-enriched slurry through the underflow outlet (13) and into a solids vessel (32); adjusting pressure within the solids vessel (32); and providing fluid communication between the reactor/products vessel (1) and the underflow outlet (14) by providing fluid communication between the reactor/products vessel (1) and the solids vessel (32). (Fig. 2; column 6, lines 44-48; and column 8 lines 8-64)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Engel et al.

Regarding claim 12; Engel et al. discloses the instantly claimed apparatus for separating slurry except for his slurry inlet (11) being connected to a pump. It is considered that it would have been obvious to one having ordinary skill in the art at the time of the invention to have connected Engel et al.'s slurry inlet (11) to a pump, since it is well known in the art to pump a slurry through a hydrocyclone.

Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engel et al. in view of Hayatadavoudi.

Regarding claims 9 and 15; Engel et al. all disclose a separation apparatus and method as disclosed above but fail to disclose that the size of their hydrocyclones underflow outlet is adjustable. Regarding claims 9 and 15; Hayatadavoudi discloses on column 6, lines 48-57 a separation apparatus and method for separating slurry comprising a hydrocyclone with an underflow outlet, wherein the size of the underflow outlet is adjustable. It is considered that it would have been obvious to one having ordinary skill in the art at the time of the invention for the size of Engel et al.'s underflow outlet to be adjustable as taught by Hayatadavoudi, in order to allow for a more efficient flow rate through Engel et al.'s hydrocyclone.

Response to Arguments

Applicant's arguments filed on July 19, 2006 have been fully considered but they are not persuasive. The applicant argument starting on page 2, line 17 of his remarks talks about how "hydrocyclone 32" does not read on the instantly claimed hydrocyclone as claimed in independent claims 1 and 13. However, the hydrocyclone used in the above Engel et al. rejection is not "hydrocyclone 32", the hydrocyclone is "hydrocyclone 12", which is substituted for "standpipe 25" in Figure 2. See column 8, lines 52-54 of Engel et al.

Allowable Subject Matter

Claims 2, 3 and 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The main reason for the allowance of claims of claims 2 and 3 over art is that the prior art of record fails to describe or fairly suggest the apparatus as having all the limitations claimed as whole and including wherein the means for providing fluid communication comprises **a housing enclosing the hydrocyclone and the products vessel, and wherein the products vessel and the underflow outlet are open to the interior of the housing.**

The main reason for the allowance of claims of claims 16-19 over art is that the prior art of record fails to describe or fairly suggest the method as having all the

limitations claimed as whole wherein fluid communication between the products vessel and underflow outlet is provided by enclosing the hydrocyclone and products vessel in a common housing.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

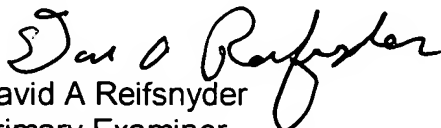
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Reifsnyder whose telephone number is (571) 272-1145. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M. Walker can be reached on (571) 272-1151. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David A Reifsnyder
Primary Examiner
Art Unit 1723

DAR